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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	
)	
THE COMMISSIONER OF BUSINESS)	CFL LICENSE NO.: 603-K014
OVERSIGHT,)	
)	ACCUSATION
Complainant,)	
)	
v.)	
)	
TITLEMAX OF CALIFORNIA, INC.,)	
)	
Respondent.)	
)	
)	

The Complainant is informed and believes, and based upon such information and belief, alleges and charges Respondent TitleMax of California, Inc as follows:

I.

Introduction

1. Respondent TitleMax of California (TitleMax) is a finance lender licensed by the Commissioner of Business Oversight (Commissioner) pursuant to the California Financing Law of the State of California (Fin. Code § 22000 et seq.) (CFL). TitleMax has its principal place of business located at 15 Bull Street, Savannah, Georgia 31401. TitleMax currently has 65 CFL branch

ACCUSATION

office licenses. TitleMax has been approved to do business under its CFL licenses under the names TitleMax and TitleBucks.

2. The CFL provides interest rate limits on loans under \$2,500.00 pursuant to the provisions of Financial Code section 22303 and 22304. The maximum interest rates allowed under Financial Code sections 22303 and 22304 are approximately 30%. The CFL does not contain similar provisions for loans of \$2,500.00 or more.

3. On or about January 14, 2016, the Commissioner, by and through staff, commenced a regulatory examination of the books and records of TitleMax (regulatory examination). The regulatory examination and follow up disclosed that TitleMax: (i) was making false, misleading or deceptive statements in violation of Financial Code section 22161, subdivision (a)(2); (ii) filed a false report with the Commissioner in violation of Financial Code sections 22159, subdivision (b) and 22170, subdivision (a); (iii) overcharged interest rates in violation of Financial Code sections 22303 and 22304; (iv) overcharged administrative fees in violation of Financial Code sections 22305; and (v) charged and received prohibited charges in violation of Financial Code section 22306.

II.

Material Misrepresentations and/or Omissions

3. Follow up investigations performed subsequent to the regulatory examination in the form of undercover shops disclosed as recently as October 10, 2018 that TitleMax routinely made statements and/or representations regarding the terms and conditions of its auto title loans that were false, misleading or deceptive in violation of Financial Code section 22161, subdivision (a)(1) in that TitleMax represented that state law prohibited loans of less than \$2,600.00 or that TitleMax was not licensed to make loans for less than \$2,600.00 when a loan of a lesser amount was inquired about.

III.

False Reports to the Commissioner

4. A review of 165 loan files disclosed, with respect to loans of \$3,100.00 or less, that 22 (13.33%) borrowers had made their first payment on the same day their loan funded or within 3 days of funding. As such, the Commissioner was concerned that TitleMax was making loans for a

1 bona fide principal amount of less than \$2,500.00, but charging interest rates and fees in excess of
2 the rates allowed under Financial Code sections 22303, 22304 and 22305. Therefore, on or about
3 January 20, 2016, TitleMax was instructed to submit a loan report covering the period of January 1,
4 2013 through January 20, 2016. The loan report was to include certain information about each loan
5 transaction including the date and amount of the first payment made by the borrower (First Payment
6 Loan Report).

7 5. On or about January 30, 2016, TitleMax submitted its First Payment Loan Report to
8 the Commissioner. The First Payment Loan Report submitted by TitleMax set forth first payment
9 amounts that were equivalent to the first scheduled installment amount and not the first payment
10 amounts actually paid by the borrowers according to the information contained in loan files reviewed
11 during the regulatory examination. Accordingly, on or about February 17, 2017, the Commissioner
12 made demand on TitleMax to submit an accurate First Payment Loan Report. TitleMax has yet to
13 submit an accurate First Payment as demanded in violation of Financial Code section 22159,
14 subdivision (b).

15 6. The First Payment Loan Report misrepresented the first payment amount in 100% (22
16 of 22) of the loans sampled that had first payments made within the 3 days of funding in violation of
17 Financial Code sections 22159(b) and 22170(a). Examples are as follows:

18 a. In loan number 1042200154, the First Payment Loan Report states a first payment
19 amount of \$342.81 on the day after funding, but the payment history discloses that the borrower
20 made a first payment of \$1,800.00 on the day after funding.

21 b. In loan number 1042200354, the First Payment Loan Report states a first payment
22 amount of \$343.73 on the second day after funding, but the payment history discloses that the
23 borrower made a first payment of \$1,310.62 on the second day after funding.

24 c. In loan number 1042200209, the First Payment Loan Report states a first payment
25 amount of \$323.74 on the day of funding, but the payment history discloses that the borrower made
26 a first payment of \$1,000.00 on the day of funding.

27 d. In loan number 1112200462, the First Payment Loan Report states a first payment
28 amount of \$324.26 on the third day after funding, but the payment history discloses that the

borrower made a first payment of \$1,825.00 on the third day after funding.

e. In loan number 1002200819, the First Payment Loan Report states a first payment amount of \$336.44 on the day after funding, but the payment history discloses that the borrower made a first payment of \$1,000.00 on the day after funding.

f. In loan number 1002200820, the First Payment Loan Report states a first payment amount of \$336.44 on the day of funding, but the payment history discloses that the borrower made a first payment of \$1,400.00 on the day of funding.

g. In loan number 1002200584, the First Payment Loan Report states a first payment amount of \$337.11 on the day after funding, but the payment history discloses that the borrower made a first payment of \$1,000.00 on the day after funding.

h. In loan number 1042200134, the First Payment Loan Report states a first payment amount of \$324.05 on the day after funding, but the payment history discloses that the borrower made a first payment of \$900.00 on the day after funding.

i. In loan number 1042200012, the First Payment Loan Report states a first payment amount of \$311.75 on the day after funding, but the payment history discloses that the borrower made a first payment of \$2,000.00 on the day after funding.

j. In loan number 1042200036, the First Payment Loan Report states a first payment amount of \$213.76 on the day of funding, but the payment history discloses that the borrower made a first payment of \$1,250.00 on the day of funding.

IV.

Overcharging Interest Rates and Administrative Fees

7. The regulatory examination further disclosed that TitleMax routinely overcharged interest rates and administrative fees on its loans in that TitleMax failed to exclude Department of Motor Vehicle (DMV) registration, lien, and/or handling fees in the calculation of the bona fide principal amount resulting in (i) loans of bona fide principal amounts of less than \$2,500.00 with interest rates in excess of the rates allowed under Financial Code section 22303 or 22304, and (ii) loans of bona fide principal amounts of \$2,500.00 or less with administrative fees in excess of the fees allowed under Financial Code section 22305.

8. Pursuant to Financial Code section 22251, subdivision (c), “the ‘bona fide principal amount’ shall not be comprised of any charges or any other fees or recompense specified in Sections 22200, 22201 (including, but not limited to, amounts paid for insurance of the types specified in Sections 22313 and 22314), 22202, 22305, 22316, 22317, 22318, 22319, 22320, 22320.5, and 22336.” The DMV registration, lien, and/or handling fees TitleMax included in calculating bona fide principal amounts are charges, fees and/or recompense specified in Financial Code sections 22200 and/or 22336, subdivision (a).

9. The maximum interest rates allowed under Financial Code sections 22303 and 22304 are approximately 30%.

10. Administrative fees allowed under Financial Code section 22305 on loans of a bona fide principal amount of \$2,500.00 or less are 5% of the principal amount exclusive of the administrative fee or \$50.00, whichever is less, and \$75.00 on loans of bona fide principal amounts in excess of \$2,500.00.

11. Examples of TitleMax overcharging interest rates are as follows:

a. In loan number 1002201049, the bona fide principal amount after excluding the DMV lien fee of \$15.00, DMV registration fee of \$286.00, and DMV handling fee of \$49.00 was \$2,165.00. The interest rate charged on this loan was 155.88%.

b. In loan number 1002200323, the loan amount after excluding the DMV lien fee of \$15.00 and out of state title and lien fee of \$112.00 was \$2,388.00. The interest rate charged on this loan was 138%.

c. In loan number 1002200540, the loan amount after excluding the DMV lien fee of \$15.00, DMV registration fee of \$151.00, and DMV handling fee of \$49.00 was \$2,285.00. The interest rate charged on this loan was 155.88%.

d. In loan number 1042200252, the loan amount after excluding the DMV lien fee of \$15.00, DMV registration fee of \$179.00, and DMV handling fee of \$49.00 was \$2,272.00. The interest rate charged on this loan was 155.88%.

e. In loan number 1042200338, the loan amount after excluding the DMV lien fee of \$15.00, DMV duplicate ownership fee of \$20.00, and DMV handling fee of \$49.00 was \$2,431.00.

The interest rate charged on this loan was 155.88%.

f. In loan number 1042200466, the loan amount after excluding the DMV lien fee of \$15.00, DMV registration fee of \$309.00, and DMV handling fee of \$49.00 was \$2,442.00. The interest rate charged on this loan was 143.88%.

g. In loan number 1062200469, the loan amount after excluding the DMV lien fee of \$15.00, DMV registration fee of \$84.00, and DMV handling fee of \$49.00 was \$2,427.00. The interest rate charged on this loan was 155.88%.

h. In loan number 1062200618, the loan amount after excluding the DMV lien fee of \$15.00, DMV registration fee of \$128.00, and DMV handling fee of \$49.00 was \$2,323.00. The interest rate charged on this loan was 155.88%.

i. In loan number 1062200632, the loan amount after excluding the DMV lien fee of \$15.00, DMV violation fee of \$127.00, and DMV handling fee of \$49.00 was \$2,324.00. The interest rate charged on this loan was 155.88%.

j. In loan number 1082200274, the loan amount after excluding the DMV lien fee of \$15.00, DMV registration fee of \$97.00, and DMV handling fee of \$20.00 was \$2,468.00. The interest rate charged on this loan was 143.88%.

12. Examples of TitleMax overcharging administrative fees are as follows:

a. In loan number 1002200993, the bona fide principal amount after excluding the DMV lien fee of \$15.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

b. In loan number 1002200820, the bona fide principal amount after excluding the DMV lien fee of \$15.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

c. In loan number 1042200012, the bona fide principal amount after excluding the DMV lien fee of \$15.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

d. In loan number 1042200286, the bona fide principal amount after excluding the DMV lien fee of \$15.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

e. In loan number 1062200638, the bona fide principal amount after excluding the DMV lien fee of \$15.00, the DMV registration fee of \$108.00 and the DMV handling fee of \$49.00 was \$2,443.00. The administrative fee charged on this loan was \$75.00.

f. In loan number 1062200530, the bona fide principal amount after excluding the DMV lien fee of \$15.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

g. In loan number 1082200231, the bona fide principal amount after excluding the DMV lien fee of \$30.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

h. In loan number 1022200093, the bona fide principal amount after excluding the DMV lien fee of \$15.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

i. In loan number 1022200052, the bona fide principal amount after excluding the DMV lien fee of \$30.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

j. In loan number 1022200383, the bona fide principal amount after excluding the DMV lien fee of \$15.00 was \$2,500.00. The administrative fee charged on this loan was \$75.00.

V.

Charging Prohibited DMV Handling Fees

13. The regulatory examination further disclosed that TitleMax routinely charged and received from borrowers third party DMV handling fees on loans of bona fide principal amounts of less than \$5,000.00 in violation of Financial Code section 22306.

14. The third party DMV handling fees charged and received by TitleMax are “charges” as that term is defined in Financial Code section 22200, i.e., “aggregate interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a licensee or any other person in connection with the investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing of a loan or forbearance of money, credit, goods, or things in action, or any other service rendered.”

15. Financial Code section 22306 provides as follows:

No amount in excess of that allowed by this article shall be directly or indirectly charged, contracted for, or received by any person, and the total charges of the finance lender and broker and any other person in the aggregate shall not exceed the maximum rate provided for in this article.

16. There is no provision in the CFL allowing licensees or any other person to directly charge, contract for, or receive DMV handling fees except as discussed in paragraph 17 below. And under Financial Code section 22306, TitleMax cannot otherwise charge an amount in excess of that

1 allowed by Article 3 of the CFL (commencing with Section 22300). Financial Code sections 22303
2 and 22304 regulate the rate of charges for loans under \$2,500. As previously noted above, the
3 maximum interest rates and charges allowed under Financial Code sections 22303 and 22304 are
4 approximately 30% per annum. While TitleMax may charge more than 30% per annum on loans of
5 \$2,500 or more; the DMV handling fees must be incorporated into those charges.

6 17. Financial Code section 22202, subdivision (g) provides that “[m]oneys paid to, and
7 commissions and benefits received by, a licensee for the sale of goods, services, or insurance,
8 whether or not the sale is in connection with a loan, that the buyer by a separately signed
9 authorization acknowledges is optional” are not charges “if the sale of the goods, services, or
10 insurance has been authorized pursuant to Section 22154.” TitleMax has not applied for, and the
11 Commissioner has not authorized TitleMax to “sale” DMV handling services under Financial Code
12 section 22154.

13 18. Examples of TitleMax charging and receiving prohibited DMV handling fees are as
14 follows:

15 a. In loan number 1002200323, the borrower was directly charged \$49.00 for DMV
16 handling fees.

17 b. In loan number 1002200540, the borrower was directly charged \$97.00 for DMV
18 handling fees.

19 c. In loan number 1002200960, the borrower was directly charged \$49.00 for DMV
20 handling fees.

21 d. In loan number 1002200723, the borrower was directly charged \$49.00 for DMV
22 handling fees.

23 e. In loan number 1002200819, the borrower was directly charged \$49.00 for DMV
24 handling fees.

25 f. In loan number 1042200252, the borrower was directly charged \$49.00 for DMV
26 handling fees.

27 g. In loan number 1042200338, the borrower was directly charged \$49.00 for DMV
28 handling fees.

h. In loan number 1042200466, the borrower was directly charged \$49.00 for DMV handling fees.

i. In loan number 1062200638, the borrower was directly charged \$49.00 for DMV handling fees.

j. In loan number 1062200490, the borrower was directly charged \$49.00 for DMV handling fees.

VI.

Revocation Statute

19. Financial Code section 22714 provides in pertinent part:

(a) The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

VII.

Conclusion

20. Complainant finds that, by reason of the foregoing, Respondent TitleMax of California, Inc. has violated Financial Code sections 22159, subdivision (b); 22161, subdivision (a)(2); 22170, subdivision (a); 22303; 22304; 22305; and 22306, and based thereon, grounds exist to revoke the finance lender licenses of Respondent TitleMax of California, Inc.

VIII.

Prayer

WHEREFORE, IT IS PRAYED that the finance lender licenses of TitleMax of California, Inc. be revoked.

Dated: December 7, 2018
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Counsel